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**Security Council Committee established pursuant to resolution 1718 (2006)**

## Note verbale dated 1 August 2016 from the Permanent Mission of Austria to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Austria to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and, in reference to paragraph 40 of Security Council resolution 2270 (2016), has the honour to convey the attached implementation report (see annex).

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## Annex to the note verbale dated 1 August 2016 from the Permanent Mission of Austria to the United Nations addressed to the Chair of the Committee

## Report by Austria on the implementation of Security Council resolution 2270 (2016)

1. Austria and the other member States of the European Union have jointly implemented the additional restrictive measures against the Democratic People's Republic of Korea (DPRK) imposed by the Security Council in its resolution 2270 (2016) by taking the following common measures:[1]

(a) Council Decision (CFSP) 2016/319 of 4 March 2016, implementing the designation of additional persons and entities (travel ban and asset freeze);

(b) Commission Implementing Regulation (EU) 2016/315 of 4 March 2016 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea and adopted by the Council with a view to implementing article 6(2) of the Council Regulation in order to give effect to the asset freeze with regard to the newly designated persons and entities;

(c) Council Decision 2016/476/CFSP of 31 March 2016, which sets out the commitment of the European Union to implement all measures contained in Security Council resolution 2270 (2016) and provides the basis for accompanying measures specific to the European Union, within the scope of the resolution, notably:

(i) Extension of export and import prohibitions to any item (except food or medicine) that could contribute to the development of the operational capabilities of the DPRK armed forces;

(ii) Requirement to expel DPRK diplomats engaged in illicit activities: targets DPRK diplomats working on behalf or at the direction of a designated individual or entity, or of an individual or entity assisting in the evasion of sanctions or violating the provisions of Security Council resolutions, including exemptions;

(iii) Requirement to expel foreign nationals involved in illicit activities: targets foreign nationals working on behalf or at the direction of a designated individual or entity, or of an individual or entity assisting in the evasion of sanctions or violating the provisions of Security Council resolutions;

(iv) Requirement to close offices of designated entities and expel representatives: member States shall close the representative offices of designated entities and prohibit such entities, as well as individuals or entities acting for them or on their behalf from participating in joint venture or any other business arrangements;

(v) Ban on specialized training, including teaching or training in specific fields;

[1] All common measures are published in the *Official Journal of the European Union*.

(vi) Requirement to inspect DPRK cargo within or transiting through free trade zones or cargo that is being transported on DPRK-flagged aircraft or maritime vessels. In addition, the obligation to inspect is irrespective of whether there are reasonable grounds to suspect that the cargo contains prohibited items;

(vii) Requirement to ban DPRK chartering of vessels or aircraft and deregister vessels, including a prohibition on providing crew services;

(viii) Requirement to prohibit nationals from operating DPRK vessels/flying the DPRK flag;

(ix) Ban on flights of any aircraft suspected of carrying contraband, with the exception of landing for inspection;

(x) Prohibition of entering into ports of any vessel controlled by a designated entity or suspected of engaging in illicit activities;

(xi) Export ban on any item that could contribute to DPRK nuclear or ballistic programmes or other weapons of mass destruction programmes;

(xii) Ban on export from the DPRK of specified minerals like coal, iron, iron ore, gold, titanium ore, vanadium ore and rare earth minerals;

(xiii) Ban on aviation fuel exports to the DPRK like aviation gasoline, naphtha-type jet fuel, kerosene-type jet fuel and kerosene-type rocket fuel;

(xiv) Asset freeze on Government entities or those of the Worker's Party of Korea associated with illegal programmes or on individuals or entities acting on their behalf;

(xv) Prohibition on the opening and operation of new branches, subsidiaries and representative offices of DPRK banks;

(xvi) Obligation to close existing branches, subsidiaries or representative offices of DPRK banks within 90 days of the adoption of resolution 2270 (2016);

(xvii) Obligation to close existing representative offices, subsidiaries or banking accounts in the DPRK within 90 days of the adoption of resolution 2270 (2016);

(xviii) Extension of the prohibition on providing financial support for trade with the DPRK and on covering private financial support for trade if such financial support could contribute to illicit activities of the DPRK;

(d) Council Regulation (EU) 2016/682 of 29 April 2016 amending Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures provided by Council Decision (CFSP) 2016/476 of 31 March 2016.

2. In addition to the common European Union measures, the Austrian authorities, within the scope of their national implementation competence, will apply the following Austrian legislation in implementing the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council:

(a) Sanctions Act 2010 (Federal Law Gazette I No. 36/2010, as amended);

(b) Foreign Trade Act (Federal Law Gazette I No. 26/2011, as amended), supplemented by the First Foreign Trade Regulation (Federal Law Gazette II No. 343/2011, as amended), the Second Foreign Trade Regulation (Federal Law Gazette II No. 418/2011, as amended) and the Third Foreign Trade Regulation (Federal Law Gazette II No. 6/2015, as amended);

(c) War Materials Act (Federal Law Gazette I No. 57/2001, as amended) and War Materials Regulation (Federal Law Gazette No. 624/1977);

(d) Foreign Exchange Act (Federal Law Gazette I No. 123/2003, as amended);

(e) Banking Act (Federal Law Gazette No. 532/1993, as amended).

3. With regard to restrictions on admissions (visa ban), Austria has the following national legislation which, together with Council Decision (CFSP) 2016/319 and Commission Implementing Regulation (EU) 2016/315, provides the basis for refusal of admission and denial of requests for a visa:

(a) Aliens Police Act 2005 (Federal Law Gazette I No. 100/2005, as amended);

(b) Settlement and Residence Act (Federal Law Gazette I No. 100/2005, as amended).

4. The above-mentioned European Union Council regulations are binding in their entirety and directly applicable in all member States of the European Union, including Austria. Council Regulation (EC) No. 329/2007, as amended, requires member States to determine the penalties applicable to infringements of their provisions. Penalties for violations of directly applicable European Union law are set out in the relevant sections of the above-mentioned Austrian legislation. Non-compliance may constitute a criminal offence punishable by up to five years of imprisonment or the payment of a fine of up to 360 times the daily rate (e.g., in the case of the Foreign Trade Act).

## Annex to the note verbale dated 1 August 2016 from the Permanent Mission of Malta to the United Nations addressed to the Chair of the Committee

## Report of Malta on the implementation of Security Council resolution 2270 (2016) concerning the Democratic People's Republic of Korea

As a State member of the European Union, Malta has implemented the restrictive measures against the Democratic People's Republic of Korea imposed under Security Council resolution 2270 (2016) following their transmittal by the European Union through Council decision 2016/476/CFSP and Commission implementing regulation (EU) 2016/315, by which the following measures were adopted:

- Council decision 2016/476/CFSP of 31 March 2016[1]

  Council decision 2016/476 establishes the commitment of the European Union to implementing all of the measures set out in Security Council resolution 2270 (2016), and provides the basis for European Union-specific accompanying measures within the scope of that resolution, notably:

  - Designation of additional persons and entities (travel ban and asset freeze)
  - Extension of export and import prohibitions: extends export and import prohibitions to any item (except food or medicine) that could contribute to the development of the operational capabilities of the armed forces of the Democratic People's Republic of Korea
  - Requirement to expel diplomats of the Democratic People's Republic of Korea engaged in illicit activities: targets diplomats of the Democratic People's Republic of Korea working on behalf or at the direction of a designated individual or entity, or of an individual or entities assisting in the evasion of sanctions or violating the provisions of Security Council resolutions, including exemptions
  - Requirement to expel foreign nationals involved in illicit activities: targets foreign nationals working on behalf or at the direction of a designated individual or entity, or of an individual or entities assisting in the evasion of sanctions or violating the provision of Security Council resolutions
  - Requirement to close offices of designated entities and expel representatives: member States shall close the representative offices of designated entities and prohibit such entities, as well as individuals or entities acting for or on their behalf, from participating in joint ventures or any other business arrangements
  - Bar. on specialized training, including teaching or training in specific fields

[1] Official Journal of the European Union L 85, 1.4.2016, p. 38.

- Requirement to inspect cargo of the Democratic People's Republic of Korea, to cover the inspection of cargo within or transiting free-trade zones or that is being transported on Democratic People's Republic of Korea-flagged aircraft or maritime vessels. In addition, the obligation to inspect is irrespective of any reasonable grounds to suspect that the cargo contains prohibited items

- Requirement to ban chartering of vessels or aircraft to the Democratic People's Republic of Korea and to deregister vessels owned, operated or crewed by that country: including a prohibition on providing crew services;

- Requirement to prohibit nationals from operating vessels of the Democratic People's Republic of Korea/using the flag of that country

- Ban on flights of any plane suspected of carrying contraband, with the exception of landings for inspection

- Prohibition of entry into ports of any vessel controlled by a designated entity or suspected of engaging in illicit activity

- Export ban on any item that could contribute to the nuclear or ballistic programmes of the Democratic People's Republic of Korea or other weapons-of-mass-destruction programmes

- Ban on export from the Democratic People's Republic of Korea of specified minerals such as coal, iron, iron ore, gold, titanium ore, vanadium ore and rare-earth minerals

- Ban on aviation fuel exports to the Democratic People's Republic of Korea, such as aviation gasoline, naptha-type jet fuel, kerosene-type jet fuel and kerosene-type rocket fuel

- Freeze on assets of government entities or the Worker's Party of Korea associated with illegal programmes or of individuals or entities acting on their behalf

- Prohibition on the opening and operation of new branches, subsidiaries and representative offices of banks of the Democratic People's Republic of Korea

- Obligation to close existing branches, subsidiaries or representative offices of banks of the Democratic People's Republic of Korea within 90 days

- Obligation to close existing representative offices, subsidiaries or banking accounts in the Democratic People's Republic of Korea within 90 days

- Extension of the prohibition to provide financial support for trade with the Democratic People's Republic of Korea: also to cover private financial support for trade if such financial support could contribute to the illicit activities of the Democratic People's Republic of Korea

- Commission implementing regulation (EU) 2016/315 of 4 March 2016, amending Council regulation (EC) No 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea[2]

  In addition to Council decision 2016/476/CFSP, the Council adopted a regulation implementing article 6 (2) of Council regulation (EC) No 329/2007 on restrictive measures against the Democratic People's Republic of Korea in order to legally enforce the asset freeze for the new European Union autonomous designations of persons and entities.

- Council regulation (EU) 2016/682 of 29 April 2016 amending Council regulation (EC) No 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea[3] gives effect to the measures provided for in Council decision 2016/476/CFSP of 31 March 2016.[4]

Such legal instruments of the European Union, once adopted, are directly applicable in the national context of Malta. Commission implementing regulation (EU) 2016/315 and Council regulation (EU) 2016/682 are implemented entirely through the Enforcement of European Union Sanctions (Democratic People's Republic of Korea) Regulations, Subsidiary Legislation 365.72, which establishes penalties for any breach of applicable sanctions. Implementing national authorities were also informed of these additional measures against the Democratic People's Republic of Korea and are kept regularly informed of any updates or amendments thereto.

With specific reference to the arms embargo, any exportation of arms and other military items from Malta is subject to an export authorization from the Maltese competent authorities. Each application is thoroughly checked to ensure that it does not fall afoul of any of the applicable sanctions. All export applications concerning goods bound for countries hit by sanctions are thoroughly examined. Moreover, Maltese customs authorities are on the alert for any prohibited items coming from or bound for countries hit by sanctions, including the Democratic People's Republic of Korea.

The Malta Financial Services Authority has published the text of Security Council resolution 2270 (2016) and the corresponding European Union regulation on its website and has also issued a notice to draw the attention of all financial services licence-holders to these measures. No need has arisen to date for freezing action in respect of these sanctions regulations by the local financial institutions.

From a shipping perspective, reference is made to Merchant Shipping Notice 125 which draws the attention of the shipping community to the applicable restrictive measures and exhorts their application of due diligence when embarking on any kind of transactions with entities linked to the States against which restrictive measures are in place.

Moreover, the Ministry of Finance conducts routine checks in relation to asset tracing in connection with designated individuals and/or entities.

In addition to the implementation of Security Council resolution 2270 (2016), the European Union also approved a number of autonomous sanctions against the

[2] Official Journal of the European Union L 60, 5.3.2016, p. 62.
[3] Official Journal of the European Union L 117, 3.5.2016, p. 1.
[4] Official Journal of the European Union L 85, 1.4.2016, p. 38.

Democratic People's Republic of Korea. Through Council decision 2016/785 of 19 May 2016 amending decision 2013/183 concerning restrictive measures against the Democratic People's Republic of Korea, the Council added 18 persons and one entity to the list of those subject to European Union restrictive measures against the Democratic People's Republic of Korea and through Council decision 2016/849 of 27 May 2016, the Council adopted additional restrictive measures which complemented and reinforced the sanctions regime imposed by Security Council resolutions. Subsidiary Legislation 365.72 implements these additional European Union autonomous measures as well.

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## Note verbale dated 1 August 2016 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Luxembourg to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) concerning the Democratic People's Republic of Korea and, with reference to paragraph 40 of resolution 2270 (2016), has the honour to transmit herewith information on the implementation by Luxembourg of the United Nations sanctions imposed upon the Democratic People's Republic of Korea (see annex).

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**Annex to the note verbale dated 1 August 2016 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chair of the Committee**

**Report of Luxembourg to the Security Council Committee established pursuant to resolution 1718 (2006) concerning the Democratic People's Republic of Korea**

In accordance with paragraph 40 of Security Council resolution 2270 (2016) and, in addition to the reports submitted with the notes verbales dated 11 February 2008 (S/AC.49/2008/1) pursuant to paragraph 11 of resolution 1718 (2006), 21 May 2012 (S/AC.49/2012/4) pursuant to paragraph 22 of resolution 1874 (2009) and 1 August 2013 (S/AC.49/2013/19) pursuant to paragraph 25 of resolution 2094 (2013), Luxembourg has the honour to transmit to the Security Council Committee established pursuant to resolution 1718 (2006) the following information on the specific measures that it has taken to implement effectively the restrictive measures imposed by resolution 2270 (2016).

## I. Measures adopted by the European Union

Under European Union law, Security Council resolutions are implemented by decisions of the Council of the European Union under the Common Foreign and Security Policy (CFSP). Those decisions establish a legally binding framework to be implemented at the national level when member States have jurisdiction, or at the European Union level in the case of restrictive measures that fall within the competence of the European Union. In this case, the Council of the European Union adopts an implementing regulation directly applicable to operators in European Union member States. In application of these principles, Luxembourg and the other European Union member States have jointly implemented the measures imposed by Security Council resolution 2270 (2016) as follows:

**Council Decision (CFSP) 2016/476 of 31 March 2016 amending Decision 2013/183/CFSP concerning restrictive measures against the Democratic People's Republic of Korea and Council Decision (CFSP) 2016/849 of 27 May 2016 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2013/183/CFSP.**

These European instruments affirm the commitment of the European Union to implement all of the measures outlined in resolution 2270 (2016). For the sake of clarity, Council Decision (CFSP) 2016/849 incorporates in a consolidated instrument the restrictive measures established by the Security Council against the Democratic People's Republic of Korea in resolutions 1718 (2006), 1874 (2009), 2087 (2013) and 2094 (2013), whereas Council Decision (CFSP) 2016/476 provides a clear framework for the specific implementation by the European Union of the measures set out in resolution 2270 (2016) as follows:

- Designation of additional individuals and entities subject to the asset freeze and travel ban.

- Extension of the export and import bans to apply to any item (except food or medicine) that could contribute to the development of the operational capabilities of the armed forces of the Democratic People's Republic of Korea.

- Requirement to expel diplomats of the Democratic People's Republic of Korea engaged in illegal activities. This measure targets diplomats of the Democratic People's Republic of Korea working on behalf of, or at the direction of, a designated individual or entity, or of an individual or entities assisting in the evasion of sanctions or violating the provisions of relevant Security Council resolutions, including exemptions.

- Requirement to expel foreign nationals involved in illegal activities. This measure targets foreign nationals working on behalf of, or at the direction of, a designated individual or entity, or of an individual or entity assisting in the evasion of sanctions or violating the provisions of relevant Security Council resolutions.

- Requirement to close representative offices of designated entities: member States must close the representative offices of designated entities and prohibit the direct or indirect participation in joint ventures or any other business arrangements by designated entities, as well as persons or entities acting for or on their behalf.

- Prohibition of specialized teaching or training in specific disciplines.

- Requirement to inspect cargo that has originated in the Democratic People's Republic of Korea, including cargo within or transiting through free-trade zones, or that is being transported on aircraft or maritime vessels flagged by the Democratic People's Republic of Korea. This inspection requirement is irrespective of the existence of reasonable grounds to believe that the cargo in question contains prohibited items.

- Requirement to prohibit the chartering of vessels or aircraft or the provision of crew services to the Democratic People's Republic of Korea, and to deregister any vessel owned, operated or crewed by that country.

- Requirement to prohibit the nationals of European Union member States from operating any vessel owned or flagged by the Democratic People's Republic of Korea.

- Ban on flights of any aircraft suspected of carrying contraband, with the exception of landing for inspection.

- Prohibition of entry into ports of any vessel controlled by a designated entity or an entity suspected of involvement in illegal activities.

- Ban on export to the Democratic People's Republic of Korea of any item that could contribute to the nuclear, ballistic missile or other weapons of mass destruction programmes of that country.

- Ban on the procurement of specific minerals from the Democratic People's Republic of Korea, including coal, iron, iron ore, gold, titanium ore, vanadium ore and rare earth minerals.

- Ban on aviation fuel exports to the Democratic People's Republic of Korea, including aviation gasoline, naphtha-type jet fuel, kerosene-type jet fuel and kerosene-type rocket fuel.
- Asset freeze of entities of the Government of the Democratic People's Republic of Korea or the Workers' Party of Korea, or of individuals or entities acting on their behalf or at their direction, or of entities owned or controlled by them, associated with the nuclear or ballistic missile programmes of the Democratic People's Republic of Korea or other activities prohibited by the relevant Security Council resolutions.
- Prohibition of the opening and operation of new branches, subsidiaries and representative offices of banks of the Democratic People's Republic of Korea.
- Requirement to close existing branches, subsidiaries and representative offices of banks of the Democratic People's Republic of Korea within 90 days.
- Prohibition on the opening of representative offices, subsidiaries, branches and banking accounts in the Democratic People's Republic of Korea.
- Requirement to close existing representative offices, subsidiaries and banking accounts in the Democratic People's Republic of Korea within 90 days.
- Extension of the ban on providing financial support for trade with the Democratic People's Republic of Korea, which also covers private financial support if such support could contribute to illegal activities of that country.

**Regulations of the Council of the European Union**

Council regulations implement the elements of the above decisions that fall within the competence of the European Union under the Treaty on the Functioning of the European Union, in particular with a view to ensuring their uniform application by economic operators in all States members of the European Union.

Council regulations are binding in their entirety and are directly applicable in all European Union member States as soon as they have been published in the *Official Journal of the European Union*. Funds and economic resources are frozen directly and immediately by Council regulations. No further national implementation provisions are necessary in this respect.

Council Regulation (EC) No. 539/2001 of 15 March 2001 (and its subsequent amendments) lists the third countries whose nationals must be in possession of visas when crossing the external borders of member States and those whose nationals are exempt from that requirement. This Regulation requires that nationals of the Democratic People's Republic of Korea be in possession of a visa to cross the external borders of the European Union. Entry restrictions to the territory are therefore implemented through the visa application process.

Council Regulation (EU) 2016/682 of 29 April 2016 amending Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea makes binding and directly applicable in all European Union member States the measures contained in Council Decision (CFSP) 2016/476 of 31 March 2016 that fall within the competence of the European Union under the Treaty on the Functioning of the European Union.

Council Regulation (EU) 2016/841 of 27 May 2016 amending Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea makes binding and directly applicable in all European Union member States the measures contained in Council Decision (CFSP) 2016/849 of 27 May 2016 that fall within the competence of the European Union under the Treaty on the Functioning of the European Union.

These regulations were supplemented by Commission Implementing Regulation (EU) 2016/315 of 4 March 2016 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea. This Implementing Regulation amends the list of individuals, entities and organizations subject to the asset and economic resources freeze, in accordance with annexes I and II to resolution 2270 (2016).

## II. National measures of Luxembourg

Under article 14, paragraph 1, of Regulation (EC) No. 329/2007 of 27 March 2007, States members of the European Union shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented.

Under the legislation of Luxembourg, violations or attempted violations of Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items and the Grand-Ducal Regulation of 2 September 2011 on the export and transit of dual-use goods and technology are subject to the measures established by the amended Act of 5 August 1963 concerning the import, export and transit of goods and related technology. Article 9 of the amended Act of 5 August 1963 establishes the following penalties under articles 231, 249 to 253 and 263 to 284 of the General Act on Customs and Excise of 18 July 1977:

(a) For falsified authorization or authorization obtained fraudulently (art. 231, para. 1):

- Imprisonment from four months to one year (art. 220, para. 1). For a repeat offence, imprisonment from eight months to two years; and for a subsequent offence, imprisonment from two to five years (art. 220, para. 2);
- Confiscation of goods (art. 221, para. 1) and means of transport (art. 222, para. 1);
- A fine equal to 10 times the amount of the customs duties (art. 221, para. 1). For a repeat offence, the fine is doubled (art. 221, para. 3);

(b) For use of authorizations contrary to the conditions of use or validity of the authorizations:

- A fine equal to the total value of the goods (art. 231, para. 2);
- Confiscation of goods (art. 231, para. 2).

In the event of export without authorization, an administrative penalty of one to six months may be imposed by the minister responsible for foreign trade.

These measures cover violations of the embargo on shipments of arms, dual-use goods and other sensitive products against the Democratic People's Republic of Korea.

The specific measures currently in force in Luxembourg are indicated below:

(a) *Embargo on arms and related materiel*

In accordance with article 5 of the amended Act of 15 March 1983 on arms and ammunition, the import, manufacture, transformation, repair, acquisition, purchase, possession, stockpiling, transport, transfer, sale, export and trade of arms and ammunition are subject to prior authorization (licence). Furthermore, in accordance with the amended Act of 5 August 1963 and with the Grand-Ducal Regulation of 31 October 1995 related to the import, export and transit of arms, ammunition and equipment specifically designed for military use and related technology, an export licence is mandatory for the sale, supply, transfer or export of arms and related materiel. This applies to all items on the Common Military List of the European Union. Licence applications are examined according to the relevant criteria of Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, taking into account the measures imposed by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013) and 2270 (2016).

The Licensing Office under the Ministry of the Economy ensures compliance with restrictive measures on the import and export of goods and issues any authorizations (licences) that are required. Licences issued for items on the list of weapons and ammunition are, in the majority of cases, issued on an individual basis. An original end-use/end-user certificate must always be submitted with the request. The Luxembourg authorities are thus able to prevent any of the prohibited goods from being supplied to individuals, groups or entities on the list established by the Committee. Luxembourg has no arms industry, and therefore no domestic production of weapons or ammunition.

Finally, through the Act of 23 May 2014, Luxembourg ratified the Arms Trade Treaty adopted by the General Assembly in New York on 2 April 2013. The Treaty entered into force on 24 December 2014 and obliges States parties to establish national control systems to regulate the export of eight categories of conventional weapons and ammunition, as well as parts and components where the export thereof is in a form that provides the capability to assemble the aforementioned conventional weapons. The Treaty also contains a list of criteria for assessing export requests (article 7) and requires the importing State to provide several pieces of information to the exporting State (article 8). Luxembourg has already established a control system for exports of military equipment, under Council Common Position 2008/944/CFSP.

(b) *Sensitive and dual-use goods*

Luxembourg is a party to the international treaties and conventions concerning the non-proliferation of weapons of mass destruction, including the Treaty on the Non-Proliferation of Nuclear Weapons, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction.

Luxembourg is also a member of various export control regimes: the Nuclear Suppliers Group, the Zangger Committee, the Missile Technology Control Regime, the Australia Group and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. The control lists of these regimes have been incorporated into Council Regulation (EC) No. 428/2009 and Council Common Position 944/2008/CFSP, which are updated annually and are applicable in Luxembourg.

In accordance with Council Regulation (EC) No. 428/2009 of 5 May 2009, the export, transit, transfer and brokering of dual-use goods that could be used in weapons of mass destruction programmes, as well as technical assistance, are subject to licensing. An export authorization is also required for goods not appearing on the lists annexed to the aforementioned Regulation if the purchasing country or the recipient is subject to the restrictive measures imposed by the Security Council, the European Union or the Organization for Security and Cooperation in Europe on arms and military equipment, or if the aforementioned goods may be intended, in their entirety or in part, for a military end-use.

The Grand-Ducal Regulation of 2 September 2011 regulating the export and transit of dual-use goods and technology aligns the system established under the amended Act of 5 August 1963 with the provisions of Council Regulation (EC) No. 428/2009 of 5 May 2009. For military equipment and goods, export licence applications must be accompanied by an end-user certificate issued in the name of the recipient or end user. However, economic operators (exporters) who intend to use the Community General Export Authorization provided for in article 9, paragraph 1, of Council Regulation (EC) No. 428/2009, must first register with the Licensing Office. A transit licence may also be required for transit operations for such goods in countries outside the European Union.

Under the Grand-Ducal Regulation of 17 October 2013 requiring licences for the export, transit and import of certain goods destined for the Democratic People's Republic of Korea, all of the goods and technology listed in annex I to Council Regulation (EC) No. 428/2009 are subject to the issuance of export and transit licences for that country, as well as the other items, materials, equipment, goods and technology listed in annexes 2 and 3 to the Grand-Ducal Regulation of 17 October 2013 that could contribute to the nuclear arms, other weapons of mass destruction or ballistic missile programmes of the Democratic People's Republic of Korea.

As part of the efforts to combat the export, transit and import of sensitive goods, the Customs and Excise Department of the Ministry of Finance established on 1 January 2004, in the air freight section of Luxembourg airport, a new special unit solely responsible for air freight issues. The Unit, called the Freight Monitoring Brigade, under the Monitoring and Surveillance Service of the Findel Airport Divisional Inspectorate, is responsible for targeting sensitive air freight leaving, entering and transiting via European Union territory through Luxembourg airport. The Freight Monitoring Brigade operates 24 hours a day, seven days a week, and continuously targets flights and sensitive cargo by checking documents and carrying out physical checks of selected consignments. In Luxembourg, Findel Airport is the only direct point of entry into and exit from European Union territory, since the country is surrounded by European Union member States.

Similarly, under the aforementioned amended Act of 5 August 1963, the Freight Monitoring Brigade conducts regular inspections by targeting documents or goods transiting through Luxembourg airport.

A draft law on monitoring the export, transfer, transit and import of goods of a strictly civilian nature, defence-related products and dual-use goods was submitted to the Chamber of Deputies of Luxembourg on 30 July 2014 and is currently in the legislative process.[1] This draft law supplements the legal framework for the implementation, inter alia, of restrictive measures.

The purpose of this draft law is to consolidate in a single legislative instrument and clarify the rules for:

(a) Monitoring the export, transfer, import and transit by operators of goods of a strictly civilian nature, defence-related products and dual-use goods;

(b) Regulating the brokering of defence-related products and dual-use goods, technical assistance related to certain military end-uses and the intangible transfer of technology;

(c) Implementing restrictive trade measures against certain States, political regimes, individuals, entities and groups, pursuant to Security Council resolutions and Acts adopted by the European Union.

The adoption of this law will enable Luxembourg to ensure even more effective implementation of the obligations of member States in relation to restrictive measures. The law also meets the need for administrative simplification, since it seeks to make the legislative framework of Luxembourg coherent and consistent by bringing together in a single text all of the legislation concerning restrictive economic and trade measures. The objective is to improve the readability of laws and regulations and adapt them to the changing market, thereby meeting the needs of economic operators. Overall, the law will enable Luxembourg:

(a) To receive information from economic operators (including financial institutions and credit organizations) and cooperate with them;

(b) To report to the European Commission on the implementation of restrictive measures;

(c) In the case of Security Council sanctions, to liaise, where appropriate, with the Security Council Committee established pursuant to resolution 1718 (2006) for specific exemption and delisting requests.

Luxembourg exercises enhanced due diligence over all the items, materials, equipment, goods and technology whose transfer to the Democratic People's Republic of Korea is prohibited, including the items in the report of the Security Council Committee established pursuant to resolution 1718 (2006), submitted in accordance with paragraph 25 of resolution 2270 (2016) and dated 4 April 2016 (S/2016/308).

*(c) Financial sanctions and due diligence of operators*

In accordance with paragraph 38 of resolution 2270 (2016), the measures taken by Luxembourg fully reflect the recommendations of the Financial Action Task Force (FATF), in particular FATF Recommendation 7.

[1] Parliamentary record No. 6708.

The legislation of Luxembourg relating to the financial sector and to combating money-laundering and the financing of terrorism establishes professional obligations and codes of conduct that must be observed at all times and in an ongoing manner by supervised entities. These supervised entities must therefore exercise customer due diligence and cooperate with the authorities, including the Financial Sector Monitoring Committee, the Insurance Commission, the Financial Intelligence Unit of the Prosecutor's Office attached to the District Court of Luxembourg and the relevant ministries dealing with international financial sanctions.

Before establishing any business relationship or conducting any transaction, supervised entities must verify the identity of customers or beneficial owners. Throughout their relationships with customers, they must monitor transactions and verify the source of funds. Due diligence, including the requirement to know the identity of customers, is a generally applicable requirement in the context of combating money-laundering and the financing of terrorism. These rules have emerged, inter alia, from Community law and the FATF recommendations.

As part of its mission to exercise due diligence over banks and other professionals in the financial sector, the Financial Sector Monitoring Committee monitors observance of the steps that banks and other financial institutions must take in order to locate and identify the funds and economic resources attributable to the aforementioned individuals and entities.

Moreover, the Luxembourg authorities are proactively conducting investigations to determine whether any shell companies not on the Security Council or European Union lists, but linked to designated entities, have assets or accounts in Luxembourg and are acting on behalf of the Democratic People's Republic of Korea.

In parallel with reporting the implementation of restrictive measures to the competent authorities, i.e. ministries and the Financial Sector Monitoring Committee, supervised entities must also declare suspicious transactions to the Financial Intelligence Unit pursuant to the amended Act of 12 November 2004 on combating money-laundering and the financing of terrorism.

In addition to promulgating regulations and issuing circulars and other related documents, the Financial Sector Monitoring Committee maintains a website dedicated to combating financial crime. All relevant documentation, including on financial sanctions, is published on the website, where professionals can also subscribe to the Committee's newsletter to keep abreast of the latest information.

The supervisory authority for the insurance sector is the Insurance Commission. Since the publication of Insurance Commission circular 11/9 on the application of international financial sanctions and restrictive measures to insurance industry professionals dated 12 September 2011, professionals in the insurance sector have been invited to subscribe directly to the Ministry of Finance electronic newsletter on international financial sanctions and restrictive measures in order to stay informed about the latest news and fulfil their relevant professional obligations without delay.

Furthermore, if international measures or sanctions are adopted by the Security Council or Committee, these measures are incorporated by Luxembourg, as indicated above, through Common Foreign and Security Policy decisions and

European Union regulations that are directly applicable under domestic law. Thus, prohibitions and restrictive measures are imposed on natural and legal persons of Luxembourg and on all other natural and legal persons operating in or from the territory of Luxembourg.

In the event that a customer of a supervised entity is targeted by an international sanction, the entity must immediately freeze that customer's assets and inform the Ministry of Finance and the supervisory authority. The Ministry of Finance is authorized to deal with all matters related to the enforcement of prohibitions and financial restrictive measures as well as their publication.

This supervisory mechanism must cover all customers and their transactions, and must target customers, agents and beneficial owners, as well as beneficiaries of insurance contracts. It must be automated, unless the professionals can demonstrate that the volume and nature of the customers and transactions to be supervised do not require such automation.

The investigative research carried out using the supervisory mechanism must be duly documented, including in cases where no positive results are produced.

The supervisory mechanism must enable the professional to take the necessary prompt action, automatically where appropriate, in the event that a suspicious activity or transaction is detected.

The Insurance Commission ensures that professionals have appropriate on-site inspection policies and procedures in place. As part of the assessment of working procedures by Insurance Commission officials, professionals must implement processes to comply with European regulations or ministerial regulations related to financial sanctions and restrictive measures. Insurance Commission officials also verify the implementation and proper use of electronic screening tools.

Furthermore, following FATF plenary meetings, the Insurance Commission issues circulars containing FATF statements on jurisdictions where the regime for combating money-laundering and the financing of terrorism has substantial or strategic shortcomings or is unsatisfactory. In that regard, and with respect to the Democratic People's Republic of Korea in particular, Insurance Commission circular 16/08 of 12 July 2016 requires all professionals to apply enhanced due diligence measures to any business relationship or transaction with a natural or legal person from the Democratic People's Republic of Korea.

In addition to the report of Luxembourg dated 1 August 2013 on the implementation of resolution 2094 (2013) (S/AC.49/2013/19), specifically the part concerning the asset freeze and due diligence of financial operators, the Financial Sector Monitoring Committee ensures that the professionals under its supervision comply with financial sanctions, including during on-site inspections. Accordingly, the Committee verifies not only whether appropriate policies and procedures have been developed, but also their implementation and effectiveness in practice (including the settings of electronic screening tools and the time periods for reporting and analysing positive matches).

The legislative framework for the financial sector is supplemented by circulars or regulations issued by the Financial Sector Monitoring Committee. In general terms, the Committee specifies how different legal provisions should be applied; publishes prudential regulations specific to particular areas of activity; and makes

recommendations concerning financial sector activities. Committee circulars 06/247 of 8 June 2006 and 10/458 of 11 May 2010 concerning the Democratic People's Republic of Korea and Committee circular 16/639 of 4 July 2016 require all establishments to apply enhanced due diligence measures for any business relationship or transaction with a physical or legal person from the Democratic People's Republic of Korea.

(d) *Travel ban and due diligence concerning diplomats or representatives of the Government of the Democratic People's Republic of Korea*

Nationals of the Democratic People's Republic of Korea travelling to Luxembourg require a visa to enter the territory of the European Union. The travel restrictions are implemented through the visa application process. Denials of visa applications are governed primarily by the Convention implementing the Schengen Agreement, signed on 19 June 1990; it regulates the entry of third-country nationals into the Schengen area, of which Luxembourg is a part. Article 5, paragraph 1, of the Convention sets out the conditions for entry into the territories of the Contracting Parties. Paragraph 2 of that article states that an alien who does not fulfil all of those conditions must be refused entry into the territories of the Contracting Parties. Since the individuals listed in the measures ordered by the Security Council do not meet the conditions set out in article 5, paragraph 1 (e), of the Convention, which states that the alien must not be considered to be a threat to public policy, national security or the international relations of any of the Contracting Parties, these individuals may not be granted entry into the territory of Luxembourg. Pursuant to articles 15 and 18 of the Convention, this prohibition of entry into the territory applies both to uniform short-stay visas valid for the entire territory of the Contracting Parties and to national long-stay visas. Furthermore, the Act of 29 August 2008 on the free movement of persons and immigration provides that individuals who are not allowed into Luxembourg shall be sent back.

The Democratic People's Republic of Korea does not have an embassy, consular representation or a trade office in the territory of the Grand Duchy of Luxembourg. The measures imposed by the relevant Security Council resolutions are implemented under the procedures governing the entry of third-country nationals to the Schengen area, of which Luxembourg is a part.

(e) *Ban on aircraft taking off from, landing in or overflying the country when there are reasonable grounds to believe that prohibited items are on board*

Civilian flights are within the jurisdiction of the Directorate of Civil Aviation. There are currently no flights between Luxembourg and the Democratic People's Republic of Korea. Authorizations for military flights are requested by the Defence Directorate through the Ministry of Foreign and European Affairs. The Directorate of Civil Aviation and the Defence Directorate implement the existing restrictive measures, taking known risk factors into account.

(f) *Bans on vessels*

The Commissariat aux affaires maritimes (Commission for Maritime Affairs), under the Ministry of the Economy, acts as a focal point for all maritime issues in Luxembourg. The Commission acts as the supervisory authority for the sector, particularly for authorized maritime companies operating from Luxembourg. It

ensure that the requirements of the Act of 9 November 1990 are fulfilled, without prejudice to the responsibilities of other administrations. The responsibilities of the Commissioner for Maritime Affairs include managing the public maritime register and, as such:

(a) Processing registration requests and issuing the necessary certificates, if he considers the physical or legal person requesting registration to have provided the necessary safeguards;

(b) Verifying that the natural or legal persons responsible for managing the company and requesting registration have the necessary professional reputation and appropriate experience to discharge their duties.

The Commissioner for Maritime Affairs may ban or refuse to register vessels belonging to physical or legal persons who do not fulfil the requirements of the Act or its implementation regulations.

Luxembourg, as a landlocked country, has no port able to accommodate the ships specified in annex III to resolution 2270 (2016). If necessary, Luxembourg would prohibit the entry into its ports of any vessel if it had information that provides reasonable grounds to believe the vessel is owned or controlled, directly or indirectly, by a designated individual or entity, or contains cargo the supply, sale, transfer or export of which is prohibited by relevant Security Council resolutions.

*(g) Gold, ores and precious metals*

Under the Grand-Ducal Regulation of 17 October 2013 requiring licences for the export, transit and import of certain goods destined for the Democratic People's Republic of Korea, the goods listed in annex 4 to the Regulation are subject to the issuance of export, transit and import licences for that country.

Annex 4 to the Grand-Ducal Regulation of 17 October 2013 also contains the information listed in paragraph 30 of resolution 2270 (2016).

The Licensing Office ensures compliance with restrictive measures on the import and export of goods and issues any authorizations (licences) that are required.

*(h) Luxury goods*

The Grand-Ducal Regulation of 19 October 2007 requiring licences for the export and transit of certain goods (luxury goods) destined for the Democratic People's Republic of Korea seeks to implement the ban on the export of certain luxury goods to that country. The list contained in the annex to this Regulation includes items listed in annex IV to resolution 2094 (2013) and annex IV to resolution 2270 (2016).